

REMARKS

As a preliminary matter, Applicant traverses the outstanding Advisory Action in its entirety as still being non-responsive. The Examiner has not met the burden placed on him by Section 707.07(f) of the MPEP which, as previously discussed, instructs the Examiner to answer the substance of Applicant's arguments traversing a rejection. The mere statement of disagreement in the outstanding Advisory Action fails to meet this burden. The Examiner's assertion that he has stated this disagreement "many times in the past" does not relieve the Examiner of this burden either. The burden to answer the substance of Applicant's arguments is not relieved by the fact that the Examiner has "many times" failed to do so. Applicant has demonstrated how the asserted *prima facie* case of obviousness against the present claims is deficient on its face for several reasons, and the Examiner has not answered these arguments.

Specifically, Applicant has demonstrated how not one of the cited prior art references of record teaches or suggests to set the frequencies of the oscillator and the filter equal to one another, as clearly recited in all of the independent claims of the present invention. The Examiner has never contradicted this showing. Instead, the Examiner has merely asserted that he himself considers this feature of the present claims obvious because it is within the capabilities of one of ordinary skill in the art to arrive at the same conclusory opinion. As clearly pointed out on the record though, Section 2143.01 of the MPEP specifically excludes such reasoning from justifying a *prima facie* case of obviousness. The record must show where one of ordinary skill is affirmatively directed to make the proposed modification, or obviousness cannot be maintained.

Section 2143.01 also requires that the prior art affirmatively indicate the teaching or suggestion to combine the references as proposed by the Examiner. In the present case, however, the Examiner has never asserted more than that the references *can be* combined as proposed. The record does not show any affirmative teaching or suggestion from the prior art to support the actual required desirability of combining all of the cited references. The Examiner's personal opinion cannot satisfy this requirement. See In re Lee, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Section 2143.01 requires that desirability for the combination affirmatively come from the prior art itself, or at least some other clear evidence on the record that is capable of objective review. Because no such objective evidence has been shown in this case, and because the Examiner has never answered these arguments, the asserted *prima facie* case of obviousness is further deficient on its face.

Additionally, Applicant has demonstrated repeatedly how the asserted *prima facie* case of obviousness is further deficient according to the requirements of Section 2143.03 of the MPEP. Section 2143.03 requires that the Examiner be able to demonstrate where each and every feature and limitation of the present claims is affirmatively taught or suggested in the cited prior art references. In the present case, however, this requirement has never been satisfied. The Examiner has never been able to once demonstrate, for example, where any one of the cited prior art references of record teaches or suggests to set the frequencies of the filter and oscillator equal to one another. Only the Benes reference has ever been cited by the Examiner with regard to this feature of the present invention, but Applicant has shown, without contradiction from the

Examiner, that Benes expressly discloses that the relative frequencies of its filters and oscillator are not equal to one another.

The Examiner's lengthy explanation for how he himself can deduce the present invention from the prior art does not satisfy the requirements of Section 2143.03, nor does it relieve the Examiner of such requirements. The prior art itself must affirmatively direct one of ordinary skill in the art to reach the same conclusion as the Examiner, and without the benefit of the present Application's disclosure. The present claims to not merely assign any particular value to the respective frequencies of the recited filter and oscillator. The present claims all additionally define a specific relationship between these two frequencies (equal to one another), a relationship which has not been shown by the Examiner to be taught or suggested by any of the cited references of record. Accordingly, the asserted *prima facie* case of obviousness is further deficient on its face for at least these additional reasons as well.

Once again, just because the Examiner has asserted the existence of a *prima facie* case of obviousness, such an assertion does not, by itself, mean that the Examiner has "made a *prima facie* case of obviousness." Such asserted cases are specifically not made when they fail to satisfy the requirements of at least Sections 2143.01 and 2143.03 of the MPEP, for example. As discussed above, these requirements have not been met in the present case, and the Examiner simply has not answered the arguments that specifically detail these deficiencies in the rejections. Accordingly, the asserted obviousness rejections must be withdrawn.

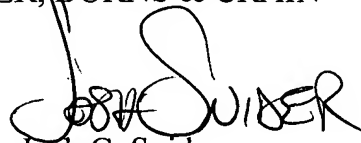
As a final matter, claim 1 has been amended to correct for typographical errors, and new claim 14 has been added to recite another combination of features of the present invention. The Examiner will find that new claim 14 features the subject matter of existing claims 1 and 2 in combination, with an additional recited feature that the crystal filter further equal to the crystal oscillator in frequency-temperature characteristic indicating a curve having an inflection point around the ambient temperature, a maximum value on the low temperature side, and a minimum value on the high temperature side. Support for these recited features can be found at least at pages 11-12 of the present Specification. Applicant submits that none of the cited references of record teach or suggest these features of the present invention either. Entry, consideration on the merits, and allowance of new claim 14 are all therefore respectfully requested.

For all of the foregoing reasons, Applicant submits that this Application, including claims 1-14, is in condition for allowance, which is again respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would further expedite prosecution.

Respectfully submitted,

GREER, BURNS & CRAIN

By



Josh C. Snider

Registration No. 47,954

Customer No. 24978

October 4, 2006

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315

P:\DOCS\1503\66084\AQ9420.DOC